

SCIENTIFIC GAMES CORPORATION, et al.,)	Case No. 2:17-cv-00343-JAD-NJK
)	
Plaintiff(s),)	ORDER
)	
vs.)	(Docket No. 17)
)	
AGS LLC,)	
)	
Defendant(s).)	
)	

I. STANDARDS

The standard applicable to a motion to seal turns on whether the sealed materials are submitted in conjunction with a dispositive, or a non-dispositive motion. Whether a motion is

1 “dispositive” turns on “whether the motion at issue is more than tangentially related to the underlying
2 cause of action.” *See Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1101 (9th Cir.),
3 *cert. denied*, 137 S.Ct. 38 (2016).

4 Parties seeking to maintain the confidentiality of documents attached to non-dispositive
5 motions must make a “particularized showing” of “good cause.” *See Kamakana*, 447 F.3d at 1180
6 (quoting *Foltz*, 331 F.3d at 1137). This requirement derives from Federal Rule of Civil Procedure
7 26(c), under which “[t]he court may, for good cause, issue an order to protect a party or person from
8 annoyance, embarrassment, oppression, or undue burden or expense.” *Id.* (citing Fed. R. Civ. P.
9 26(c)(1)). “Broad allegations of harm, unsubstantiated by specific examples or articulated reasoning,
10 do not satisfy the Rule 26(c) test.” *Beckman Indus., Inc. v. Int’l Ins. Co.*, 966 F.2d 470, 475 (9th Cir.
11 1992) (internal citation omitted).

12 On the other hand, parties “who seek to maintain the secrecy of documents attached to
13 dispositive motions must meet the high threshold of showing that ‘compelling reasons’ support
14 secrecy.” *Kamakana*, 447 F.3d at 1180. Those compelling reasons must outweigh the competing
15 interests of the public in having access to the judicial records and understanding the judicial process.
16 *Id.* at 1178-79; *see also Pintos*, 605 F.3d at 679 & n.6 (court must weigh “relevant factors,”
17 including the public’s interest in understanding the judicial process”).

18 Lastly, to the extent any confidential information can be easily redacted while leaving
19 meaningful information available to the public, the Court must order that redacted versions be filed
20 rather than sealing entire documents. *Foltz*, 331 F.3d at 1137; *see also In re Roman Catholic*
21 *Archbishop of Portland in Oregon*, 661 F.3d 417, 425 (9th Cir. 2011) (the district court must “keep
22 in mind the possibility of redacting the sensitive material”).

23 **II. ANALYSIS**

24 The pending motion seeks to seal Petitioners’ motion to compel, as well as exhibits 5, 7, 8,
25 9, 10, and 12, and Petitioners’ reply in support of the motion to compel. *See* Docket No. 17 (motion
26 to seal); Docket No. 1 (motion to compel and exhibits); Docket No. 15 (reply in support of motion
27

1 to compel). The Court reviews this motion under the good cause standard. *See Kamakana*, 447 F.3d
2 at 1185-86; *3B Med., Inc. v. Resmed Corp.*, 2016 WL 6818953, at *2 (S.D. Cal. Oct. 11, 2016)
3 (applying the good cause standard in the context of a motion to compel related to an underlying
4 action in a different district).

5 Petitioners ask the Court to seal the documents at issue because they reference information
6 covered by a stipulated protective order in an underlying action in the Northern District of Illinois.
7 Docket No. 17 at 3. Petitioners contend that, because that information is covered by a stipulated
8 protective order, the documents at issue “may contain trade secrets and other sensitive, non-public
9 business secrets or plans.” *Id.*

10 The mere existence of a stipulated protective order is insufficient to justify sealing. *See*
11 *Beckman*, 966 F.2d at 476 (internal citation omitted) (“In the instant case, the parties stipulated to
12 a blanket protective order. Reliance will be less with the blanket order, because it is by nature
13 overinclusive . . . [B]ecause the protective order was a stipulated blanket order, International never
14 had to make a ‘good cause’ showing . . . in the first place”). Moreover, the broad assertion that all
15 of the documents “may” contain trade secrets or other sensitive information falls far short of
16 satisfying the Ninth Circuit’s requirement of a “particularized showing” of “good cause.” *See*
17 *Kamakana*, 446 F.3d at 1180 (citing *Foltz*, 331 F.3d at 1136).

18 In addition, the pending motion seeks to seal in their entirety several exhibits to the motion
19 to compel, without explaining why redaction is not proper instead. The Court also notes that instead
20 of filing the exhibits as separate attachments, Petitioners initially filed their motion to compel and
21 all of its exhibits under seal, as one document. *See* Docket No. 1 at 24-173. Thus, even the exhibits
22 that Petitioners contend should be public have been filed under seal.

23 **III. CONCLUSION**

24 The motion to seal as currently presented fails to satisfy the good cause standard. Petitioners
25 provide conclusory statements regarding the need for secrecy without articulating the harm that
26 would arise from disclosure, and fail to explain why redaction of certain documents is not possible.

1 The Court hereby **INSTRUCTS** the Clerk's Office to keep the subject documents sealed for the time
2 being. No later than March 27, 2017, Petitioners shall submit a supplemental brief with
3 particularized reasons showing good cause for sealing the documents or portions of documents
4 Petitioners ask the Court to seal, and supported by a declaration or other competent evidence. For
5 the documents that Petitioners ask the Court to seal in their entirety, Petitioners must explain why
6 redaction of those documents is not possible.

7 IT IS SO ORDERED.

8 DATED: March 21, 2017.

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NANCY J. KOPPE
United States Magistrate Judge
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